

Model W-2 Subcontract

I. Parties and Contract Period

This contract is between _____ whose business address is _____, hereinafter referred to as 'Purchaser', and _____ whose business address is _____, hereinafter referred to as 'Provider'. This contract is to be effective for the period _____.

The Provider employee responsible for day-to-day administration of this contract will be [enter name and phone number] whose business address is _____. In the event that the Contract Manager is unable to administer this contract, the Provider will contact the Purchaser and designate a new contract manager.

The Purchaser employee responsible for day-to-day administration of this contract will be [enter name and phone number] whose business address is _____. In the event that the Contract Manager is unable to administer this contract, the Purchaser will contact the Provider and designate a new contract manager.

Commentary:

Providers with multiple service facilities represent a unique situation. In these cases, if the Purchaser makes direct payment to the Central Corporate entity for services at several service sites or facilities, the Central Corporate entity is regarded as the Provider. If, however, payment is made individually to the various service facilities, a separate contract is required for each because each is a provider.

II. Services to be Provided

Subject to the terms and conditions set forth in the *Wisconsin Works (W-2) and Related Programs Contract*, the Purchaser agrees to purchase and the Provider agrees to provide to eligible participants the services as described in detail in this contract.

For all contracts between an agency administering programs supervised by the Department of Workforce Development (DWD) and a provider, the services to be provided for agency participants shall be stated.

Commentary:

This section should consist of locally developed statements of services and other program deliverables. This should include precise narrative and statistical statements of the:

- *specific W-2 services to be delivered;*
- *budget for these costs*
- *number of W-2 participants to receive such services,*
- *cost per unit delivered; and*
- *timeframe in which W-2 services are to be provided.*

Services may be described in an application/RFP/plan that is approved by the Purchaser and included in this contract by reference.

III. Payment for Services

A. Funding

1. Availability and Limitation

- a. Funds in the amount of \$ _____ are made available by the Purchaser for the delivery of services described in Section II. of this contract. Include the budgeted unit cost for each service in part II unless this is reflected in a plan included by reference.

NOTE: Items enumerated in Section III.A.1. may be omitted when they do not apply to the services to be provided under the sub-contract.

2. Payment Procedures

When expenditure reports are submitted in accordance with Section XII, the Purchaser shall reimburse the Provider within ____ days of receipt of expenditure reports or give written notice of the reason(s) for non-payment.

IV. Indemnity and Insurance

- A. The Provider agrees that it will at all times during the existence of this contract indemnify the Purchaser against any and all loss, damages, and costs or expenses which the Purchaser may sustain, incur, or be required to pay by reason of any eligible client's suffering, personal injury, death or property loss resulting from participating in or receiving the care and services to be furnished by the Provider under this contract; however, the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by the Purchaser.
- B. The Provider agrees that, in order to protect itself as well as the Purchaser under the indemnity provision set forth in the above paragraph, the Provider will at all times during the terms of this contract keep in force a liability insurance policy issued by a company authorized to do business in the State of Wisconsin and licensed by the Office of the Insurance Commissioner. Upon the execution of this contract, the Provider will furnish the Purchaser with written verification of the existence of such insurance. In the event of any action, suit, or proceedings against the Provider upon any matter herein indemnified against, the Provider shall, within five working days, cause notice in writing thereof to be given to the Purchaser by certified mail, addressed to its post office address.
- C. The Provider performing services for the shall:
 1. Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
 2. Maintain commercial liability, bodily injury and property damage insurance against any claim(s), which might occur in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including product liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract.

Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

- D. The Provider and any subcontractors performing services shall maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in work

V. Affirmative Action/Civil Rights Compliance

Use the same provisions as contained in the DWD's Wisconsin Works (W-2) and Related Programs Contract.

Commentary:

This language reflects the requirements established for subrecipients of federal funds to comply with federal and state laws and regulations. Contracts estimated to be over Twenty-Five Thousand Dollars (\$25,000) require the submission of a written Affirmative Action Plan by the Provider. An exemption occurs from this requirement if the Provider has a workforce of less than twenty-five (25) employees. Within thirty (30) calendar days of the Provider signing the Contract, the Provider must submit the plan to the Purchaser for approval. Instructions on preparing the plan and technical assistance regarding this section are available upon request from the DWD (http://www.dwd.state.wi.us/des/manuals/pdf/crc_manual.pdf).

The Purchaser will take constructive steps to ensure compliance of the Provider with the provisions of this subsection. The Provider agrees to comply with Civil Rights monitoring reviews performed by the Purchaser, including the examination of records and relevant files maintained by the Provider. The Provider further agrees to cooperate with the Purchaser in developing, implementing, and monitoring corrective action plans that result from any reviews.

VI. Bonuses to Employees

The Provider will provide the Purchaser with a copy of the Provider's policies on bonuses to their employees.

VII. Subcontracting by Provider

The Provider may subcontract for any of the services described in the Contract. Any such subcontract must contain all of the provisions in this contract.

On a quarterly basis, the Provider must report the following to the Purchaser for each W-2 service subcontract it enters: the amount spent, the subcontract time period, and whether the subcontractor is a certified Minority Business Enterprise (<http://www.doa.state.wi.us/dsas/mbe/index.asp>).

VIII. Faith-Based

The Purchaser will not require the faith-based Provider to alter its definition, development, practice or expression of its religious beliefs, nor shall it require the faith based Provider to alter its internal governance or remove religious art or any other expression of its religious belief.

The Purchaser will make available within a reasonable time an alternative provider of the same services, worth the same value, to any participant who objects to the religious character of the faith-based Provider from which the participant would receive services or assistance.

The Purchaser shall require the faith based Provider meet all fiscal and accounting standards, and generally accepted accounting principles.

IX. Renegotiation

This contract or any part thereof should be renegotiated in the case of 1) increased or decreased volume of services; 2) changes required by federal or state laws or regulations or court action; or, 3) monies available affecting the substance of this contract

X. Contract Revision and/or Termination

- A. Failure to comply with any part of this contract may be considered cause for revision, suspension, or termination.
- B. The Purchaser and the Provider must agree to revisions of this contract by an addendum signed by the authorized representatives of both parties.
- C. The Provider shall notify the Purchaser whenever it is unable to provide the required quality or quantity of services. Upon such notification, the Purchaser and the Provider shall determine whether such inability will require a revision or cancellation of this contract.
- D. If the Purchaser finds it necessary to terminate this contract prior to the expiration date this contract, for reasons other than non-performance by the Provider, actual approved costs incurred by the Provider may be reimbursed in an amount determined by mutual agreement of both parties.
- E. The Purchaser reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds by the State of Wisconsin or for failure of the provider to comply with terms, conditions, and specifications of this contract.
- F. This contract can be terminated by a ___ day written notice by either party.

XI. Resolution of Disputes

Settlement of any disputes that may arise concerning the provisions of this contract is the responsibility of both parties to this contract. If negotiated settlement cannot be reached within thirty (30) days of issue identification, the provisions of Section IX may be initiated.

XII. Records

- A. The Provider shall maintain such records and financial statements as required by state and federal laws, rules, and regulations (http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=345205&infobase=stats.nfo&j1=16.61&jump=16.61&softpage=Browse)

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- B. The Provider will allow inspection of records and programs, insofar as it is permitted by state and federal laws, by representatives of the Purchaser, the DWD and its authorized agents, and federal agencies, in order to confirm the Provider's compliance with the specifications of this contract.
- C. The use or disclosure by any party of any information concerning eligible clients who receive services from the Provider for any purpose not connected with the administration of the Provider's or the Purchaser's responsibilities under this contract is prohibited except with the informed, written consent of the eligible client or the client's legal guardian.

XIII. Reporting

A. Invoicing Procedures

- 1. Monthly invoices for services provided will be submitted to the Purchaser within _____ calendar days following the end of the reportable month. The invoice will identify the total amount of reimbursement being sought. The categories, which shall be used to report expenses, should follow the DWD's contract reporting requirements (*Wisconsin Works Financial Management Manual, Chapter B6: Reimbursement Schedule*)
- 2. Monthly invoices shall be submitted to: _____
- 3. The Provider shall submit final claims for reimbursement under this contract to the Purchaser within 45 days of contract end. Failure to submit claims timely and in the proper format will result in the loss of funds to the Provider.

B. Reports, Participant Confidentiality, and System Security

- 1. The Provider agrees to supply the Purchaser with monthly report(s) relating to delivery of services under this contract that will include the following: _____

_____.

2. The Provider agrees to report services that are provided through the direct entry of data into DWD's automated reporting system. The Purchaser assures that any preliminary data entry required to enable the Provider to use DWD's automated reporting system (e.g., referral and enrollment data) be entered in a timely manner.

The Provider will need to follow the requirements outlined in the Security Manual to gain access to DWD's automated reporting system (<http://dwdworkweb/dws/manuals/securitymanual.htm>). The Provider must identify themselves as a 'subcontractor' when completing the Computer Access Request form (DES-10).

NOTE: This section may be modified depending upon the availability of DWD's automated reporting system to the sub-contractor.

3. The subcontract must assure adequate steps have been taken to safe guard sensitive client and administrative information contained in DWD's automated systems by meeting the standards set forth by DWD (<http://dwdworkweb/dws/manuals/securitymanual.htm>)
4. The subcontract must assure adequate security for the network by meeting the standards set forth by DWD (http://www.dwd.state.wi.us/w2tech/network_security.htm)

The subcontract must permit authorized federal and state personnel to make on-site inspections to ensure those requirements of federal/state regulations are being met.

- C. The Purchaser will take constructive steps to ensure compliance of the Provider with the provisions of this subsection. The Provider agrees to comply with Civil Rights monitoring reviews performed by the Purchaser, including the examination of records and relevant files maintained by the Provider. The Provider further agrees to cooperate with the Purchaser in developing, implementing, and monitoring corrective action plans that result from any reviews.

XIV. Provider Responsibilities

The Provider agrees to meet state and federal service standards and applicable state licensure and certification requirements as expressed by state and federal rules and regulations applicable to the services covered by this contractual agreement (<http://www.dwd.state.wi.us/des/pdf/dwsppcg.pdf>). In addition, the Provider shall

- A. Adhere to the following audit requirements:

The Provider must provide an annual audit to the Purchaser, unless the DWD waives the audit requirement. The Purchaser must contact the DWD for this waiver. The standards for the Provider annual audits vary by type of agency as shown below.

1. Governmental Units: audits must be completed pursuant to OMB Circular A-133, Revised June 24, 1997, 'Audits of States, Local Governments, and Non-Profits Organizations' and

the *State Single Audit Guidelines*. (<http://www.dwd.state.wi.us/des/pdf/dwsppcg.pdf>)

2. Non-Profit Agencies and Institutions: audits must be completed pursuant to OMB Circular A-133 and the *State Provider Agency Audit Guide*. See OMB Circular A-133 for the distinction between vendors and subrecipients (<http://dwdworkweb/notespub/desprov/1e2.htm>). [OMB Circular A-133 - <http://www.whitehouse.gov/omb/circulars/a133/a133.html>]
 3. For Profit Agencies: audits must be completed pursuant to the purchase contract language, the *State Provider Agency Audit Guide*, and the DWD's Policies and Procedures.
- B. Maintain a uniform double entry accounting system and a management information system compatible with cost accounting and control systems. (See *DWD Allowable Costs Policy in the DWD W-2 Financial Management Manual*).
 - C. If the Provider obtains services for any part of this contract from another vendor, the Provider is responsible for fulfillment of the terms of this contract and shall give prior written notification of such to the Purchaser for approval.
 - D. All services under this contract shall be provided in accordance with, but not limited to, the requirements of the federal Temporary Assistance for Needy Families (TANF), Wisconsin Works (W-2) and applicable Wisconsin Statutes. The services must be provided in conformity with applicable state and federal requirements and the State W-2 Plan as approved by the Family Support Administration of the U.S. Department of Health and Human Services. The Provider must adhere to the requirements of applicable DWD Administrative Rules, the W-2 Financial Management Manual, the DWD's Policies and Procedures and this contract that the Purchaser has with DWD (<http://www.dwd.state.wi.us/des/pdf/dwsppcg.pdf>).
 - E. The Provider agrees to cooperate with the Purchaser in developing and maintaining procedures for linking case management functions with the Purchaser.
 - F. The Provider agrees to cooperate with the Purchaser in coordinating local W-2 services with other educational and training programs in the designated service area.
 - G. The Provider agrees to cooperate in developing and maintaining procedures for an effective conciliation process to assure that W-2 enrollees are accorded an interview with an impartial staff person designed to air grievances and attempt conciliation so program activities can be utilized by the enrollee.
 - H. The parties agree that any loss or expense including costs and attorney fees imposed by law will be charged to the party responsible for the office, employee or agency whose actions caused the loss or expense.
 - I. The Purchaser and the Provider agree that the following criteria will form the basis of determination of acceptable performance under this contract:

NOTE: This is where the local Purchaser identifies criteria by which performance will be monitored for acceptability. The W-2 Contract is available as a reference.

XV. Required forms to be signed and attached to a subcontract: Certification Regarding Debarment and Suspension, Certification Regarding Lobbying and Disclosure of Lobbying Activities.

XVI. Conditions of the Parties Obligations

A. Disclosure of Independence and Relationship

1. No Relationship

When signing this contract, the Provider certifies that no relationship exists between the Provider and the Purchaser that interferes with fair competition or is a conflict of interest, and no relationship exists between the Provider and another person or organization that constitutes a conflict of interest with respect to this contract. If there is a conflict of interest, the Provider must notify the Purchaser's Contract Manager. The Purchaser will refer this notice from the Provider to the DWD's Contract Manager. The DWD Contract Manager may waive this provision in writing, if the activities of the Provider will not be adverse to the interests of the DWD.

2. Funding or Adverse Interests

The Provider agrees as part of this contract that during performance of this contract, the Provider will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is funded by the DWD or has interests that are adverse to the DWD. If there is a conflict of interest, the Provider must notify the Purchaser's Contract Manager. The Purchaser will refer this notice from the Provider to the DWD's Contract Manager. The DWD's Contract Manager may waive this provision in writing, if the activities of the Provider will not be adverse to the interests of the DWD.

B. Independent Capacity

The Parties hereto agree that the Provider, its officers, agents, and employees, in the performance of this contract shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The Provider agrees to take such steps as may be necessary to ensure that each subcontractor of the Provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venture, or partner of the State or the Purchaser.

C. This contract is contingent upon authorization of Wisconsin and United States laws and any material amendment or repeal of the same affecting relevant funding or authority of the DWD shall serve to terminate this contract, except as further agreed to by the parties hereto.

D. Nothing contained in this contract shall be construed to supersede the lawful powers or duties of either party.

- E. It is understood and agreed that the entire contract between the parties is contained herein, except for those matters incorporated herein by reference, and that this contract supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.
- F. The Purchaser shall be notified in writing of all complaints filed in writing against the Provider. The Provider shall inform the Purchaser in writing with their understanding of the resolution of the complaint.

XVII. Signatures

- A. This contract is agreed upon and approved by the authorized representatives of _____ and _____ as indicated below.
- B. This contract becomes null and void if the time between the Purchaser's authorized representative signature and the Provider's authorized representative signature on this contract exceeds sixty days.

For Purchaser: _____
[Typed Name] Date
[Title]

[Typed Name] Date
[Title]

For Provider: _____
[Typed Name] Date
[Title]

[Typed Name] Date
[Title]

Commentary:

Either an individual provider or a provider's authorized representative must sign this contract. If the application of this general rule is unclear in a particular case, the purchasing agency will need to seek advice from its legal counsel.